IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.3461 OF 1999

Surendrasingh Nandsingh Gusain
and Anr. : Petitioners.

versus

The State of Maharashtra : Respondent

None for the petitioners.
Ms.S.V.Gajre, APP, for the State.

CORAM : V.M.KANADE, J.

DATED : 30th January 2006.

ORAL ORDER

1. None appears on behalf of the petitioners. Heard learned APP for the State. By this application, the petitioners are challenging an order passed by the Special Judge, Gr.Mumbai directing the Investigating Officer to re-arrest the accused. Apart from the aforesaid direction, the Special Judge was pleased to order to carry out the investigation further.

2. On a complaint filed by the Investigating Officer before the Special Court under the provisions of Food & Drugs Act, investigation was carried on by the Investigating Officer. However, since the Investigating Officer did not attend the Court, the Special Court discharged the petitioners and bail bond was cancelled. Thereafter an application was made by the Investigating Officer and a request was made to set aside the earlier order. The Special Judge allowed the said application and set aside its earlier order dated 17.08.1999 and further direction was given directing the Investigating Officer to re-arrest the petitioners.

3. In my view, the Special Judge was justified in re-calling the order of discharge which was passed against the petitioners. However, there was no need to direct the Investigating Officer to re-arrest the petitioners particularly when earlier they were released on bail by the Court. In the result, the application is allowed. The order of re-arrest passed by the Special Judge is set aside. Rule is made absolute in the above terms.

[V.M.KANADE,J]